

[Aberhart] c.1934 see Irving p.93 not in Peel 2

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THE
SOCIAL CREDIT LEAGUE
OF ALBERTA

"The B.N.A. Act and Social Credit"

Does the Canadian Constitution Prevent
a Province from Solving Its Problems?
Should Good Government Stultify
Freedom in a Crisis?

In Times of Political Development
Absolute Control Is Seldom Sought.

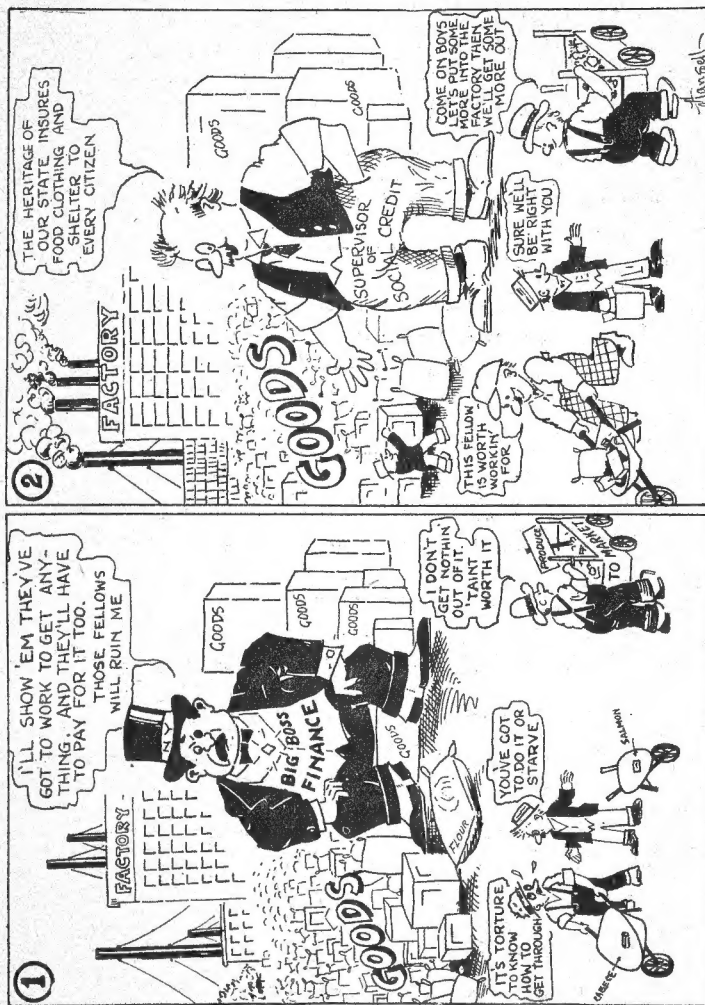
**Does Clause 138 of Bank Act
Forbid Social Credit?**

Good and Welfare Should Be
Supreme Then.

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Mention No. 2.

Would the Canadian Constitution prevent us from solving our problems?



NOW and THEN
"Good and welfare should be supreme."

THE B.N.A. ACT AND SOCIAL CREDIT

Does the Canadian Constitution Forbid the Introduction of Social Credit into a Province?

Like Democracy and Liberty, the Canadian Constitution has been honored more in name than in understanding. Some earnest citizens seem to think that it should be used as a constant justification of all freedom, progress and good government.

Too often the public accept these declarations with the same acquiescence as they do the weather. It is too bad, but it cannot be helped.

It is no surprise, therefore, to hear from public platforms and from private individuals, not an exposure of the fallacies of Social Credit, but a partial admission of all its claims and a bemoaning that it is too bad the B.N.A. Act will not allow it to be introduced into any one of the provinces singly.

Are we to conclude from this, that it is the function of our Canadian Constitution to prevent any province from solving its problems? Is it the business of good government to cramp and hinder progress towards freedom, especially in an economic crisis such as this? If so, surely we must cease to call it good government and the word "Constitution" has lost its original import, meaning to stand together for the good and welfare of each.

Just as this point may we hasten to call your attention to the fact that the introduction of Social Credit into any province will not in any way interfere with the welfare of any other province nor with that of the Dominion as a whole.

The Canadian Autonomy Granted to Each Province Is a Constitutional Fact.

The Constitution of Canada, for example, differs from that of the United States in this particular. There are no undistributed powers for the exercise of the people at large. Thus an "initiative and referendum" scheme to permit direct legislation by the people has been declared unconstitutional in Canada. Our legislative bodies possess all power, within their own realm, but that of divesting themselves of part of it. They may delegate their powers but they cannot escape responsibility for their exercise.

It is true, that the Governor-General-in-Council has power, subject to certain restrictions, to disallow provincial legislation, but this right indicates the broad authority of the province.

As the political progress of Canada, or, if you like, the British Empire, is still developing slowly, it is rarely that attention is directed to the absolute right of legislative provincial power. Mr Justice Riddell, delivering judgment in *Florence v. Cobalt* (Ontario Law Reports, 1908, p. 279) said: "The legislature within its jurisdiction can do everything that is not naturally impossible, and is restrained by no rule, human or divine."

On another occasion the same worthy Judge declared: "Our provincial legislatures have the undoubted power to take private property for public use, or even for any use whatsoever, public or private, and without compensation."

The Provincial Autonomy is a Constitutional fact

There are ten legislatures possessing these powers. The Dominion Parliament has mechanism admirably designed to stultify radical action. Each of the nine provincial legislatures has powers, limited also by the rights of the other eight.

No one of the ten has any right and should not be allowed to get into the way of any other, that is solving its own problems without interfering in any way with the others.

SHOULD CANADA AS A WHOLE ADOPT SOCIAL CREDIT?

It has been suggested that the whole of Canada should adopt Social Credit at once. Well and good! But this involves a greater difficulty.

There may be such a phenomenon as "two minds with but a single thought", but a vision of ten legislatures in a similar state of harmony taxes the most hopeful imagination.

The very clumsiness of this method should be apparent.

There are ways in which the Dominion may bring pressure to bear upon the provinces under the present financial system, but the whole principle of Social Credit begins at the other end of the lever. A brief consideration of the handling of unemployment relief will reveal at once the many difficulties that would arise.

No sane Dominion Government would attempt to compel the introduction of any scheme in all the provinces unless each province in itself was willing. Anarchy is regarded as too great a price to pay.

The B.N.A. Act and Provincial Autonomy.

The legislative jurisdiction of the Dominion is outlined in Sections 91, 92, 93, 94 and 95 of the B.N.A. Act, and the pertinent powers described by these sections can be conveniently grouped under three headings:

(1) General Powers.

(These we have dealt with above).

(2) Control of Industry and Resources.

Under the system of Social Credit proposed by Douglas which we recommend for any province, there is to be no change in the ownership and control of industry and resources. The present control is all that is necessary.

(3) Finance and Monetary Contracts.

The Parliament of the Dominion has exclusive power to make laws governing banking, the issue of paper money, currency and coinage, and legal tender. That is, it is the sole arbiter of what shall be the nature, function and operation of banking, credit, and the money system of Canada.

It has also exclusive power to make laws governing "interest", bills of exchange, and promissory notes.

These latter powers are outlined in the "Bills of Exchange Act". The former concerning banking and money are definitely declared in the Bank Act.

We want to show our readers that the Douglas proposals for Social Credit need not interfere in the slightest way with either of these two Acts as at present drawn.

Before leaving this, may we add that these Dominion powers are not as broad as might be at first supposed, for by definite Acts and by actual custom the rights of the provinces have been established, and definite jurisdiction has been assigned exclusively to them.

(E.g. The provinces have a definite jurisdiction over "property and civil rights").

In this matter there are two exceptions established by custom when the Dominion may override the province's authority:

(1) When the subject, in its origin, local and provincial, has attained such dimensions as to affect the body politic of the Dominion;

(2) When in a time of extraordinary peril to the national life, such as war, Dominion legislation is supreme.

Surely neither of these could be invoked in our attempt to solve our own problems of unemployment and lack of purchasing power, by the introduction of Social Credit.

However, in 1930, Premier Ferguson of Ontario implicitly challenged the authority of the Dominion in regard to the power development on the St. Lawrence river.

Again, Section 91 (2) gives the Dominion power to regulate trade and commerce but not "trades". Generally speaking the Dominion parliament may not legislate upon wages, hours of labor, working conditions, employment agreements, etc., except

in connection with projects under its own jurisdiction. The general authority rests in the provincial legislature. Under this section the Dominion parliament could not enact such legislation as President Roosevelt's National Industrial Recovery Act.

The province surely has the right to introduce a system of Social Credit to encourage the "trades" and provide purchasing power to the consumer while at the same time they restrict the exploitation of its citizens.

The Bank Act and Social Credit.

Some, not fully understanding the detail of a provincial system of Social Credit, have declared that the Bank Act forbids the introduction of Social Credit. When pressed for the direct breach of the Bank Act, in Social Credit, it is said that Clause 138 forbids the use of non-negotiable certificates; that these are a substitute for money.

We print in full this clause: 138, Chap. 12, p. 72, 1923.

An Act Respecting Banks and Banking.

1. Every person, except a bank to which this act applies, who issues or reissues, makes, draws or endorses any bill, bond, note, cheque, or other instrument, intended to circulate as money, or to be used as a substitute for money, for any amount whatsoever, shall incur a penalty of four hundred dollars.

2. Such penalty shall be recoverable with costs, in any court of competent jurisdiction, by any person who sues for the same.

3. A moiety of such penalty shall belong to the person suing for the same, and the other moiety to His Majesty for the public uses of Canada.

4. If any such instrument is made for the payment of a less sum than twenty dollars, and is payable either in form or in fact to the bearer thereof, or at sight, or on demand, or at less than thirty days thereafter, or is overdue, or is in any way calculated or designed for circulation or as a substitute for money, the intention to pass the same as money shall be presumed UNLESS such instrument is—

- (a) A cheque on some chartered Bank, paid by the maker directly to his immediate creditor, or
- (b) A promissory note, bill of exchange, bond or other undertaking for the payment of money made or delivered by the maker thereof to his immediate creditor, and
- (c) Not designed to circulate as money or as a substitute for money.

As you read Clause (1) you will see at once that a non-negotiable certificate could not be designed nor intended to cir-

culate as money. It is merely a certificate acknowledging a debt and asking the provincial credit house to make the proper entry in a book for the same.

Furthermore, when we come to Clause 4 stating the intention, we find exceptions:

(1) A cheque.

(2) The ordinary commercial papers that are made by our citizens and given to another as evidence of debt, such as promissory notes, bills of exchange, bonds or (note this phrase)

"Other undertaking for the payment of money made or delivered by the maker thereof to his immediate creditor and not designed to circulate as money or as a substitute for money."

This last covers the common I.O.U. A non-negotiable certificate is merely an I.O.U.

The provincial government today has the authority to receive deposits of money from the citizens on Savings Certificates. There is no need for further authority.

Whether the people of this province would consent to have the will of the majority rendered inoperative by loosely-jointed constitutional machinery, overstepping its proper functioning through influences of a sordid nature brought to bear upon our good governments remains to be seen.

One thing is certain. The people will not much longer bear up under the present unsatisfactory conditions, when Social Credit offers them a solution.

Especially will this be the case when the only objection is one of constitutional authority, being intruded into a realm of unnecessary interference.

Let us come to a proper conclusion and stand by it.

CRUSOE AND FRIDAY

AN ANALYTICAL PARABLE

The following analytical parable with unemployment in the state of primitive society, which is going the rounds, carries many valuable lessons, many of which may be applicable to present-day conditions.

"Friday," said Robinson Crusoe, "I'm sorry, I fear I must lay you off."

"What do you mean, Master?"

"Why, you know, there's a big surplus of last year's crop. I don't need you to plant another this year. I've got enough goatskin clothes to last me a lifetime. My house needs no repairs. I can gather turtle eggs myself. There's an over production. When I need you I'll send for you. You needn't wait around here."

"That's all right, Master, I'll plant my own crop, build my own hut and gather all the eggs and nuts I want myself. I'll get along fine."

"Where will you do all this, Friday?"

"Here on this island."

"This is, and belongs to me, you know. I can't allow you to do that when you can't pay me anything I need. I might as well not own it."

"Then I'll build a canoe and fish in the ocean. You don't own that."

"That's all right provided you don't use any of my trees for your canoe, or build it on my land, or use my beach for a landing place, and do your fishing far enough away so as not to interfere with my riparian rights."

"I never thought of that, Master. I can do without a boat. though. I'll swim over to that rock and fish there and gather sea-gull eggs."

"No, you won't Friday; the rock is mine. I own the riparian rights."

"Then what shall I do, Master?"

"That's your problem, Friday. You're a free man and you know about the rugged individualism maintained here."

"I guess I'll starve, Master. May I stay here until I do or shall I swim beyond your riparian right and drown or starve there?"

"I've thought of something, Friday. I don't like to carry garbage down to the shore each day. You may stay and do that. Then whatever is left of it, after my dog and cat have been fed, you may eat. You're in luck."

"Thank you, Master. That is true charity."

"One thing more, Friday. This island is over-populated. Fifty per cent of the people are unemployed. We are undergoing a severe depression and there is no way that I can see to end it. No one but a charlatan would say that he could. So keep a lookout and let no one land here to settle, and if any ship comes don't let them land any goods of any kind. You must be protected against foreign labor. Conditions are fundamentally sound, though, and prosperity is just around the corner."